

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

SUSAN ELAM)
)
Plaintiff,)
)
v.) No. 04-3315-CV-S-FJG-SSA
)
JO ANNE B. BARNHART,)
Commissioner, Social Security)
Administration)
)
Defendant.)

ORDER

This action involves two applications made under the Social Security Act. The first is an application for disability insurance benefits under Title II of the Act, 42 U.S.C. §§ 401 et seq. The second is an application for supplemental security income (SSI) benefits based on disability under Title XVI of the Act, 42 U.S.C. §§ 1381 et seq.

This action is brought pursuant to 42 U.S.C. § 405(g)(1981). Plaintiff's applications for disability insurance benefits were denied and she requested a hearing.. On May 28, 2003, following a hearing the ALJ rendered a decision finding that plaintiff was not under a disability as defined by the Act. On June 4, 2004, the Appeals Council of the Social Security Administration, denied plaintiff's request for review. Thus, the decision of the ALJ stands as the final decision of the Commissioner. The facts and arguments are presented in the parties' briefs and will not be repeated here.

The Eighth Circuit recently stated the standard for judicial review of an ALJ's denial of benefits:

We must uphold the ALJ's decision if it is supported by substantial

evidence. . . . Our task is not to reweigh the evidence, and we may not reverse the Commissioner's decision merely because substantial evidence would have supported an opposite conclusion or merely because we would have decided the case differently. . . . In determining whether substantial evidence supports the ALJ's decision, we must consider evidence in the record that supports the ALJ's decision as well as evidence that detracts from it.

Harwood v. Apfel, 186 F.3d 1039, 1042 (8th Cir. 1999)(citations omitted).

"Substantial evidence is less than a preponderance, but enough that a reasonable mind might accept it as adequate to support a decision.' . . . We also evaluate whatever evidence contradicts the Commissioner's decision, rather than simply searching the record for supporting evidence." Rankin v. Apfel, No. 99-1601, 1999 WL 1012297, *1 (8th Cir. Nov. 9, 1999), citing, Cox v. Apfel, 160 F.3d 1203, 1206-07 (8th Cir. 1998).

The Court has reviewed the parties' briefs, the decision of the ALJ, the transcript of the hearing and the medical and documentary evidence. After this review, the Court finds substantial evidence in the record to support the Commissioner's decision. Accordingly, it is hereby **ORDERED** that plaintiff's motion to reverse the final decision of the ALJ is hereby **DENIED** (Doc. # 9) and the decision of the Commissioner is hereby **AFFIRMED**.

Date: March 17, 2006
Kansas City, Missouri

S/ FERNANDO J. GAITAN JR.
Fernando J. Gaitan Jr.
United States District Judge